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LS-57971

6 September 1955

MEMORANDUM FOR THE RECORD

SUBJECT: Possible Conflicts Between CIA Career Service Plan and Statutory Rights of Veterans

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1. As a result of a telephone conversation between [redacted] of Personnel and Mr. Irons of the Civil Service Commission, a meeting was held in the office of John W. Steele, Room 1713, Civil Service Commission Building, attended by [redacted] of Personnel and Mr. [redacted], of the Office of the General Counsel, from 1130 to 1230 hours, 2 September 1955 (Mr. Steele may be reached on Code 171, Extension 5291).

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2. The issue for discussion was as follows:

Under policy to be embodied in a revision of R 20-105, CIA would not credit military service toward the three year eligibility period for the Career Staff except in those cases where the service was undertaken at the request of CIA or in the performance of CIA functions; would this violate any statutory rights of veterans?

3. At the outset, we indicated to Mr. Steele that, although we could find nothing in the applicable legislation or CSC Regulations directly in point, since the issue of possible conflict had been raised internally, we wished to secure his advice as the Veterans' Preference expert of the Civil Service Commission. We explained to him generally the concept of the CIA Career Service and told him that the general philosophy behind such a program had been informally approved in earlier discussions with the Commission.

4. Mr. Steele agreed that there was nothing in the statutes or regulations directly bearing on the case. However, he felt that this was because of the necessary broadness of statutory language and because in devising regulations, the Commission had not considered this type of situation. He pointed out that should a case arise under our Career Service program and be brought to the Commission for determination of the applicability of Veterans' Preference legislation, the Commission would have to look to the intent of the statute, which he felt sure was to prevent the veteran from losing any rights, to which he would otherwise have become entitled, as a result of his military service.

5. Mr. Steele pointed out that it was most unlikely that a case arising within CIA would get to the Commission for determination.

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However, we emphasized that we wished to accord with the law and the proprieties, whether or not the degree of our conformance was ever open to question.

6. Some discussion ensued on the nature of the benefits that would attach to membership in the Career Service. Mr. Steele specifically asked if preference would be given to Career Employees in any reduction in force. We replied that, although no overall RIF plan had as yet been developed for the Agency, it was likely that retention preference would be granted to members of the Career Staff. We emphasized the obligation undertaken by those who applied for an accepted membership in the Career Staff--the obligation of unlimited mobility. We stressed the greater value, considering the functions of this Agency, of a mobile employee, other things being equal.

7. We then raised the key point that concerned us, that is, the extreme case of an individual who, after a few days of civilian service with CIA, might enter the military and, upon restoration to CIA civilian employment, would become immediately eligible for consideration for the Career Staff. We pointed out that the various criteria for membership were such that it would be almost impossible to determine their applicability in such a case, since no one within CIA would have had a fair opportunity to appraise the individual.

8. Mr. Steele's conclusion was that although we must count all military service for eligibility, since eligibility is based solely upon length of service, and this is the very interest of the veteran most specifically protected, there could be no objection to our determining in individual cases that an eligible individual did not yet meet the requirements of the selection criteria.

9. The overall conclusion of the conference was that the most satisfactory planning for CIA Regulation would be one counting all military service in determining eligibility so as to avoid a possible conflict. It was also agreed that it would be violatory of the spirit of the law, if not of its letter, to blanket out by administrative action all those who offered military service as part of their three year eligibility period, although it is recognized that there may be a higher percentage of rejects in this group simply because of the difficulty of determining their suitability under established criteria.

10. The point was made to Mr. Steele that CIA was not sure whether or not it was subject to Veterans' Preference legislation,

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and Mr. Steele conditioned his conclusions upon the assumption that we were, or that (as we had stated) we wished to comply with the policy of the legislation whether subject to it or not.

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